

Serial No.: 10/608,852  
Filing Date: June 27, 2003  
Group Art Unit: 3618  
Examiner: C. Bottorff  
Atty. Docket No.: 104934-2

### REMARKS

The pending Office Action addresses and rejects claims 1-28. Applicants note that claims 29-40, added by a Preliminary Amendment filed on March 25, 2005, were not considered, and thus consideration of these claims is respectfully requested.

#### *Amendments*

Applicants amend claims 1 and 24 to clarify that the central axis is fixed. Support for this amendment can be found throughout the specification, for example, in paragraph [0019] of the published application. Applicants also add new claim 41 to recite a suspension system for supporting a foot that includes a first member having an upper surface adapted to support a foot and an opposed lower surface, a second member positioned a distance apart from the lower surface of the first member and having upper and lower surfaces, and a ball-and-socket interface disposed between the lower surface of the first member and the upper surface of the second member and adapted to allow movement of the first member about an axis with respect to the second member. Support for this amendment can be found throughout the specification and in the drawings.

No new matter is added.

#### *Objections to the Drawings*

The Examiner objects to the drawings for failing to comply with 37 C.F.R. 1.83(a) because they do not show every feature of the invention as specified in the claims. In particular, the Examiner submits that the flexible attachment member recited in claim 10 and the engagement element formed on a boot recited in claim 11 are not shown in the accompanying drawings, and therefore these claims must be deleted or corrected drawing sheets must be submitted showing these features.

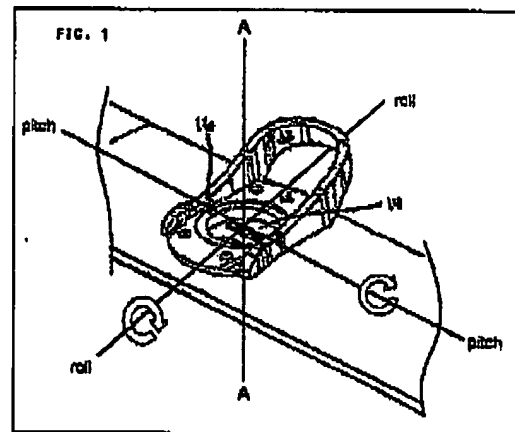
While Applicants disagree with the Examiner's rejection, in order to expedite prosecution Applicants cancel claims 10 and 11, thereby obviating the basis for this objection.

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### ***Objections to the Claims***

The Examiner objects to claims 1-28 pursuant to 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner argues that the term "pivotal movement . . . about a central axis," as used in claims 1, 13, and 24, does not invoke the definition of "pivotal" provided in the specification. The specification states that "pivotal" is "intended to include pitch and roll movement, or some combination of pitch and roll movement, about a substantially fixed central axis." However, the Examiner argues that pitch and roll movements in an object, such as the claimed device, occur about two separate axes rather than one fixed axis.

While applicants agree that pitch and roll movement occurs about two separate axes, the term "pivotal" can include pitch and roll movement about a fixed central axis, as defined in the specification. To demonstrate this, Figure 1 of the present application is reproduced herein with modifications. As shown, the base plate (12), which is positioned a distance apart from the support to allow movement, has a fixed central axis A. The base is thus fixed at a point along the central axis A, and therefore it cannot slide horizontally in any direction. The base plate can, however, pivot about the central axis A in multiple directions. This pivotal movement about the fixed central axis A can include, for



example, movement in which the base plate pivots to raise the toe and lower the heel. In other words, the pivotal movement about the fixed central axis A can include pitch movement. While pitch movement can itself be defined as movement about its own axis, i.e., the pitch axis shown in Figure 1, the pivotal movement of the base plate about the fixed central axis A can certainly include pitch movement. For the same reasons, the pivotal movement about the fixed central axis A can include roll movement, and combinations of pitch and roll movement. Accordingly, reconsideration and withdrawal of this objection is respectfully requested.

Serial No.: 10/608,852  
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Atty. Docket No.: 104934-2

***Claim Rejections Pursuant to 35 U.S.C. 102(b)***

***U.S. Patent No. 5,577,755 of Metzger***

The Examiner rejects claims 1, 2, 10-13, 23, 24, and 26-28 pursuant to 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,577,755 of Metzger, arguing that Metzger discloses the claimed invention. Applicants respectfully disagree.

Metzger does not teach or even suggest a binding system having a connecting element that allows *pivotal movement* about a fixed central axis of a base plate with respect to a support base or recreational riding device, as required by independent claims 1, 13, and 24. Rather, Metzger is limited to a binding that is rotatable. As shown in Figure 1, Metzger discloses a binding having a base plate (20) and a binding plate (40) that mount directly onto a surface of a snowboard (90). (See Col. 2, lines 33-35.) Since the base plate and binding plate rest on the snowboard, neither the base plate nor the binding plate can pivot. Rather, only rotational movement of the binding plate (40) is allowed with respect to the base plate (20). (See Col. Col. 2, line 47.) Accordingly, Metzger fails to teach or even suggest any type of connecting element for allowing pivotal movement of a base plate with respect to a support. Independent claims 1, 13, and 24, as well as claims 2, 10-11, 23, and 26-28 which depend therefrom, therefore distinguish over Metzger.

***U.S. Patent No. 6,428,032 of Humbel***

The Examiner also rejects claim 13 pursuant to 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,428,032 of Humbel. The Examiner argues that Humbel discloses all of the elements of claim 13. Applicants respectfully disagree.

Humbel, like Metzger, does not teach or even suggest a connecting element that allows *pivotal movement* between a base plate and a recreational riding device, as required by independent claim 13. As shown in Figure 1, Humbel discloses a safety binding for a snowboard having a fastening plate (4) that is connected to a snowboard (3), and a boot plate (5) that mates to a boot (2) and that is coupled to the fastening plate (4). As explained at Col. 2, lines 44-54, the fastening plate is movable in three directions: (1) it can rotate or turn with respect to the snowboard; (2) it can rotate along a longitudinal axis to adjust the cant setting; and (3) it can rotate along an axis extending at a

Serial No.: 10/608,852  
Filing Date: June 27, 2003  
Group Art Unit: 3618  
Examiner: C. Bottorff  
Attr. Docket No.: 104934-2

right angle to the longitudinal axis to adjust the heel setting. Since movement of the fastening plate is strictly limited to rotation, cant, and heel, the fastening plate does not allow combinations of pitch and roll movement. Thus, the fastening plate disclosed by Humbel cannot *pivot* about a fixed central axis, as required by independent claim 13. Independent claim 13 therefore distinguishes over Humbel and represents allowable subject matter.

***Claim Rejections Pursuant to 35 U.S.C. 103(a)***

***Humbel and U.S. Patent No. 6,428,032 of Acuna, Jr.***

The Examiner also rejects claims 1-5, 9-12, 14-17, 19, 20, and 22-28 pursuant to 35 U.S.C. 103(a) as being obvious over Humbel in view of U.S. Patent No. 6,428,032 of Acuna, Jr. ("Acuna"). Applicants respectfully disagree.

For reasons noted above, Humbel does not teach or even suggest the claimed invention. Acuna does not remedy the deficiencies of Humbel. Acuna is merely directed to a snowboard binding that can be rotated to allow the user to adjust the angular orientation or direction of their foot with respect to the snowboard. The binding does not allow for any pitch and roll movement. As shown in Figure 2, the binding includes a main body (10) that is sandwiched between a base disc (15) and a top disc (13). The base disc is rigidly mounted to a snowboard (5), and the top disc is effective to engage the main body to prevent rotational movement thereof. A lever is provided for pulling up on the top disc to allow the main body to be rotated about the central axis. The binding does not include any type of connecting element for allowing pivotal movement of the main body (10) with respect to the snowboard, as required by independent claims 1, 13, and 24. Accordingly, Acuna does not remedy the deficiencies of Humbel, and therefore independent claims 1, 13, and 24, as well as claims 2-5, 9-12, 14-17, 19, 20, 22-23, and 25-28 which depend therefrom, therefore distinguish over Humbel and Acuna, taken alone or combined.

***Humbel, Acuna, and U.S. Patent No. 5,971,419 of Knapschafer***

The Examiner also rejects claims 6-8 and 21 pursuant to 35 U.S.C. 103(a) as being obvious over Humbel in view of Acuna, and further in view of U.S. Patent No. 5,971,419 of Knapschafer. For reasons noted above, independent claims 1 and 13 distinguish over Humbel and Acuna and

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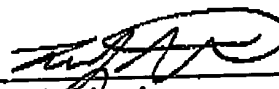
therefore represent allowable subject matter. Claims 6-8 and 21 are therefore allowable at least because they depend from an allowable base claim.

**Conclusion**

In conclusion, Applicants submit that all pending claims are now in condition for allowance, and allowance thereof is respectfully requested.

Respectfully submitted,

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